IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI NORTHERN DIVISION

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAR 27 2017
ARTHUR JOHNSTON
BY ______ DEPUTY

PLAMEN DIMITROV, et al)
)
Plaintiff(s),)
)
v.) Civil Case No. 3:17-cv-208 WHB-LRA
)
NISSAN NORTH AMERICA, INC.,)
a Tennessee Corporation, JOHN DOES 1-10,)
and XYZ CORP. 1-10)
Defendants.)

JURY TRIAL DEMANDED

Plaintiffs, Plamen Dimitrov and Yordanka E. Mutafchieva by their Attorney, respectfully allege as follows:

NATURE OF THE CASE

1. This is a civil action for personal injuries suffered by Plaintiffs Plamen Dimitrov, and for loss of consortium by Yordanka E. Mutafchieva (collectively "Plaintiffs") against Defendant, Nissan North America, Inc, John Does 1-10 and XYZ Corp. 1-10. This action arises out of a shooting incident that occurred on July 25, 2013, on Nissan Property, at or about, Gate Number 6, 300 Nissan Drive, Canton, Mississippi, in which the Plaintiff, Plamen Dimitrov, suffered gunshot wounds from an unknown individual during an attempted robbery/highjacking. The Defendant's negligence was a substantial contributing factor in causing Plaintiff's injuries.

PARTIES

2. Plaintiffs, Plamen Dimitrov and Yordanka E. Mutafchieva are individuals and each a citizen of the State of Illinois. Plamen Dimitrov is a truck driver and Yordanka E. Mutafchieva is a homemaker.

3. Defendant, Nissan North America, Inc. is a Tennessee Corporation whose principal office is located in Franklin, Tennessee. Nissan North America, Inc. has manufacturing plants, distribution centers, and auto dealerships throughout the United States and in Canton, Mississippi.

4. Defendants John Does 1-10 and XYZ Corp 1-10 are corporations, entities, agencies, businesses, individuals, and the like which are presently unknown to the Plaintiff but whose negligent acts and/or omissions proximately caused the Plaintiff's injuries and/or damages. Plaintiff will amend this Complaint to allege the true capacity of these parties when they are ascertained. Plaintiff is informed and believes that each of the Defendants designated herein as Unknown is responsible in some manner for the occurrences herein alleged that proximately contributed to the damages set forth herein.

VENUE AND JURISDICTION

5. This Court has personal jurisdiction over the parties.

6. This Court has subject matter jurisdiction over this cause pursuant to pursuant to Title 28 U.S.C §1332 as the matter in controversy exceeds the value of $75,000.00, exclusive of interest and costs, and is between citizens of different states.

7. Venue is proper in the United States District Court for the Southern District of Mississippi, Northern Division pursuant to Title 28 U.S.C §1391 as same is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS

Plaintiff, Plamen Dimitrov

8. On July 25, 2013, Plamen Dimitrov was employed by Spirit Logistics, Inc.

as an owner-operator truck driver.

9. Mr. Dimitrov lived in Glenview, Illinois.

10. Mr. Dimitrov's job was based out of the Spirit Logistics truck yard in Addison, Illinois.

11. Upon information and belief, on July 18, 2013, Mr. Dimitrov departed the Spirit Logistics truck yard in Addison, Illinois, with his tractor and trailer to make a pickup of auto parts at the Nissan Plant located at Springfield, Tennessee.

12. Upon information and belief, on July 25, 2013, at approximately 12:00 pm, Mr. Dimitrov departed the Nissan Plant located at Springfield, Tennessee, with a load of auto parts and proceeded directly to the delivery location being the Nissan Plant in Canton, Mississippi.

13. Upon information and belief, on July 25, 2013, at approximately 10:40 pm, Mr. Dimitrov completed his delivery at the Nissan Plant in Canton, Madison County, Mississippi. After he drove his truck outside of Gate Number 6, he pulled over and parked the truck on Nissan property, being the Nissan Plant's access driveway at New Ragsdale Road. Mr. Dimitrov then called his wife on his cell phone.

14. While parked Mr. Dimitrov observed an individual approaching his truck from the rear from the direction of the Nissan Plant. The individual appeared to be talking on a cell phone. As the individual approached the cab of Mr. Dimitrov's truck he jumped onto the side of the cab and shouted "get out of the truck". Before Mr. Dimitrov could react the individual fired three shots, one of which struck Mr. Dimitrov.

15. Mr. Dimitrov lost consciousness for several minutes. Upon regaining

consciousness he became frightened and alarmed that the individual that shot him might be in the area. Mr. Dimitrov fled the area and proceeded to a truck stop several miles away.

16. Mr. Dimitrov was transported by ambulance to the University of Mississippi Hospital where he underwent emergency surgery.

FIRST CAUSE OF ACTION
[Negligence]

17. The allegations set forth in paragraphs 1 through 14 of this Complaint are re-alleged and incorporated by reference as if fully set forth herein.

18. Nissan North America, Inc.[1] had a duty to provide reasonably safe facilities for its invitees, visitors, and vendors to access and exit the premises, and to conduct business such as truck deliveries. The nature of the premises itself, frequency of criminal acts committed on the premises as well as the frequency of crime on the premises and in the surrounding area before the occurrence should have placed Defendants on notice that its business visitors were in foreseeable danger from criminal attack. Defendants knew, or should have known, that reasonable security measures were needed to protect the business invitees on the subject premises, and that the atmosphere at the time of the assault and attack of Plaintiff was ripe for violent activity.

19. Nissan North America, Inc. breached its duty to provide reasonably safe facilities by failing to provide adequate security and lighting to allow for safe access and exit of the premises, to conduct business such as truck deliveries.

20. It was reasonably foreseeable that, by failing to provide adequate security

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[1] Nissan North America, Inc., is the only known Defendant at this time. While other persons or entities' negligence may have contributed to the occurrence, all allegations are directed at Nissan North America at this time and are intended to relate back to unknown Defendants when identified and added to the complaint.

and lighting to allow for safe access and exit of the premises, to conduct business such as truck deliveries, that a truck driver such as Mr. Dimitrov would be injured.

21. Nissan North America, Inc.'s negligent failure to provide reasonably safe facilities, and in particular failing to provide adequate security and lighting to allow for safe access and exit of the premises, to conduct business such as accepting truck deliveries, directly caused and/or contributed to Mr. Dimitrov's injuries.

22. As a result of Nissan North America, Inc.'s negligence in failing to provide reasonably safe facilities, Mr. Dimitrov suffered actual damages. These damages include past present and future pain and suffering, permanent disfigurement, emotional distress, disability, medical bills and related costs of treatment, lost work time and income.

23. The serious injuries and/or damages suffered by Plaintiffs occurred as a result and proximate consequence of Defendant's gross negligence, breach of its duty of care, and failure to warn of foreseeable danger.

24. The acts and omissions of the Defendant described herein constitute a willful, wanton, grossly negligent conduct and reckless disregard for the safety and protection of its business visitors, specifically the Plaintiffs' safety and security/protection, for all of which the Defendants are liable for punitive damages and attorney's fees in an amount to be determined by the Court.

SECOND CAUSE OF ACTION
[Premises Liability]

25. The allegations set forth in paragraphs 1 through 20 of this Complaint are re-alleged and incorporated by reference as if fully set forth herein.

26. On July 25, 2013, at approximately 10:40 pm, Mr. Dimitrov lawfully on the

premises located at the Nissan Plant in Canton, Mississippi.

27. On July 25, 2013, it was the duty of the Defendant, Nissan North America, Inc. to exercise reasonable care the in maintaining its premises so as not to negligently cause and/or contribute to the injury of persons lawfully on the premises located at the Nissan Plant in Canton, Mississippi.

28. On July 25, 2013, disregarding its duty in the premises, Defendant, Nissan North America, Inc. was guilty of one of the following acts or omissions:

(a) Negligently failed to provide adequate security; to include uniform guards, cameras, signage, flashing lights, insignia, or other security measures to deter and prevent criminal acts.

(b) Negligently failed to provide adequate lighting to deter and prevent criminal acts.

(c) Negligently failed to provide adequate lighting to persons lawfully on the premises.

(d) Negligently permitted persons lawfully on the premises, to use an area when it knew or should have known by the exercise of reasonable care of its unlit, dark, and unsafe conditions.

(e) Negligently failed to warn the Plaintiff of the dangerous condition of the area.

29. As a proximate result of the aforesaid Defendant's negligence, Plaintiff, then and there sustained and will continue to sustain permanent injuries, permanent disfigurement, partial disability, pain, lost wages and medical expenses.

THIRD CAUSE OF ACTION
[Loss of Consortium]

30. The allegations set forth in paragraphs 1 through 24 of this Complaint are re-alleged and incorporated by reference as if fully set forth herein.

31. Prior to injuries suffered by Plaintiff, Plamen Dimitrov, he was an adult person in good physical and mental condition and was a faithful and dutiful husband to Plaintiff, Yordanka E. Mutafchieva.

32. Plaintiff, Plamen Dimitrov, is and was at all times herein mentioned, the Husband of Plaintiff, Yordanka E. Mutafchieva. As a proximate result of the aforesaid-described acts and conduct of the Defendant, Nissan North America, Inc. and the injuries to her Husband, Plaintiff Yordanka E. Mutafchieva has lost and continues to lose the love, moral, beneficial and economic support, affection, society, companionship and solace of her Husband, and has thereby sustained a pecuniary loss in a sum within the jurisdictional limits of this court, which will be stated according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demands the following relief against Defendant:

A. Awarding actual damages resulting from Defendant's wrongdoing in excess of $75,000, exclusive of costs and interest.

B. Punitive damages in an amount to be proven at trial;

C. Pre-judgment and post-judgment costs, interest and attorney's fees;

D. Such other and further relief as this Court may deem appropriate and equitable.

Respectfully submitted,

Yancy B. Burns (MSB#99128)
Attorney for Plaintiffs

Yancy B. Burns, Esq.
Burns & Associates, PLLC
P. O. Box 16409
Jackson, Mississippi 39236-6409
Phone: (601)487-6997
Facsimile: (601)487-6958